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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-5078

Supreme Court, U.S.
FILED
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E. ROBERT SEAVER, CLERK

DEAN RENE PETERS,

Petitioner,

v.

C. P. KIFF,

Respondent.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE* AND BRIEF *AMICUS CURIAE* OF THE NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.

JACK GREENBERG
JAMES M. NABRIT, III
CHARLES STEPHEN RALSTON
10 Columbus Circle
New York, New York 10019

Attorneys for the NAACP Legal Defense and Educational Fund, Inc.

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MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE* AND STATEMENT OF INTEREST OF *AMICUS*

Movant N.A.A.C.P. Legal Defense and Educational Fund, Inc., respectfully moves the Court for permission to file the attached brief *amicus curiae,* for the following reasons. The reasons assigned also disclose the interest of the *amicus.*

(1) Counsel for the petitioner has consent to the filing of a brief *amicus curiae* by the movant. The present motion is necessitated because counsel for the respondent has refused consent.[1] On January 21, 1972, counsel for amicus mailed to counsel for respondent the final manuscript of this motion and brief. Therefore, respondent received the

[1] The letters of petitioner and respondent granting and refusing consent are on file with the clerk of this Court.

brief in ample time to allow it to respond to the arguments made therein, if it so desired in its brief, due February 9, 1972.

(2) Movant N.A.A.C.P. Legal Defense and Educational Fund, Inc., is a non-profit corporation, incorporated under the laws of the State of New York in 1939. It was formed to assist Negroes to secure their constitutional rights by the prosecution of lawsuits. Its charter declares that its purposes include rendering legal aid gratuitously to Negroes suffering injustice by reason of race who are unable, on account of poverty, to employ legal counsel on their own behalf. The charter was approved by a New York Court, authorizing the organization to serve as a legal aid society. The N.A.A.C.P. Legal Defense and Educational Fund, Inc. (LDF), is independent of other organizations and is supported by contributions from the public. For many years its attorneys have represented parties in this Court and the lower courts, and it has participated as *amicus curiae* in this Court and other courts, in cases involving many facets of the law.

(3) Over a long period of time, LDF attorneys have handled, here and in other courts, many cases involving the unconstitutional exclusion of blacks from jury venires.[2] Despite success in these cases, the problem of discrimination in this vital facet of the administration of criminal justice persists. This experience has led *amicus* to the conclusion that its goal, the final eradication of jury discrimination, will be substantially advanced by a decision in the present case that all criminal defendants may challenge such discrimination. Thus, *amicus* has an interest in the

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[2] *E.g.*, *Patton* v. *Mississippi*, 332 U.S. 463 (1947); *Sims* v. *Georgia*, 389 U.S. 404 (1967); *Carter* v. *Jury Commission of Greene County*, 396 U.S. 320 (1970); *Turner* v. *Fouche*, 396 U.S. 346 (1970); *Alexander* v. *Louisiana*, O. T. 1971, No. 70-5026.

present case beyond that of the immediate litigants and therefore presents in the attached brief a broader and alternative basis in support of petitioner's position.

WHEREFORE, movant prays that the attached brief *amicus curiae* be permitted to be filed with the Court.

Respectfully submitted,

Charles S. Ralston

JACK GREENBERG
JAMES M. NABRIT, III
CHARLES STEPHEN RALSTON
10 Columbus Circle
New York, New York 10019

Attorneys for the NAACP Legal Defense and Educational Fund, Inc.